



CORRECTION

Planning Commission and Town Council

**Joint Public Hearing
Cape Charles Civic Center
October 21, 2024
6:00pm**

At 6:00p.m., on October 21st, 2024, Councilman Paul Grossman, filling in for Chairman Bill Stramm, having established a quorum, called to order the Joint Public Hearing for the Planning Commission. Also present were Commissioners Bill Ashworth, Jim Holloway, Ian McDonald, and Libby Wright. Commissioners Bill Stramm and Shannon Smith were not in attendance.

At 6:02p.m., Mayor Adam Charney, having established a quorum called to order the Joint Public Hearing for the Town Council. Also present were Councilwomen Tammy Holloway, Councilman Andy Buchholz, Councilman Paul Grossman, and Councilman Ken Butta. Vice-Mayor Steve Bennett was not in attendance.

Town staff in attendance were Town Manager John Hozey, Planning/Zoning Administrator and Subdivision Agent Katie Nunez, Planning/Zoning Assistant – Preservation & Zoning Administrator Tracy Outten, Zoning Compliance Officer Jack Steinmayer, Assistant Treasurer Adrian Oei, and Finance Clerk Ryan Silvey.

After establishing both quorums, a moment of silence was observed, followed by the recitation of the pledge of allegiance.

Following the pledge of allegiance, Councilman Grossman asked for a motion to approve the agenda format as presented, motion was made by Commissioner Holloway and seconded by Commissioner McDonald. It was approved by unanimous consent.

After the approval of the agenda format, Planning/Zoning Administrator Katie Nunez presented the staff presentation on the proposed Short-Term Rental (STR) ordinance amendments. (See attached)

Once Ms. Nunez finished the staff presentation, Councilman Grossman opened the Public Hearing.

Once the Public Hearing was opened, the first member of the public to speak was Donna Kohler, who resides at 711 Tazewell Avenue. Mrs. Kohler believes that STRs should follow the same stringent Conditional Use Permit (CUP) processes as Bed and Breakfasts, rather than allowing them as a by-right use.

After Mrs. Kohler, the next to speak was Walt Bronson from 515 Tazewell Avenue. Mr. Bronson concurred with Mrs. Kohler in that STRs should go through the CUP process. He also addressed the ongoing parking issues within the Residential-1 district. He mentioned that under the current Zoning Ordinance tourist homes are required to have one off-street parking space available, which up to this point has not been enforced. Mr. Brunson believes that we should retain this aspect of the Zoning Ordinance as it would help limit the total number of cars per STR. Furthermore, he mentioned that instead of limiting STRs to 5 per owner, it should be a lower number. Finally, Mr. Brunson spoke on the transient occupancy tax vs monthly payments from companies like VRBO/Airbnb.

Speaking next was Elise McMath located at 304 Tazewell Avenue. She expressed uncertainty about why the public is just seeing the STR ordinance proposals now when they are almost finalized instead of earlier in the process. She also wanted to know why they are going to be allowed as a by-right use instead of a conditional one. Furthermore, she wondered who was truly going to benefit from STRs as not every homeowner within Cape Charles was looking for a way to increase their property values. She further questioned if approving STRs was truly going to be beneficial for Cape Charles, as allowing STRs as a by-right use would drive up housing costs and make it harder for young families to afford to live in town, knowing that the Town has been looking for ways to increase the number of young families that reside in Cape Charles.

Following Elise was Ed Wells from 202 Strawberry Street. Mr. Wells mentioned that STRs in Cape Charles have been around for roughly 8 years, so why has it taken so long to see this information? Furthermore, he wanted to know about business insurance requirements.

Laura Weigand from 623 Madison Avenue was next. She mentioned that this was a good first step for the Town to take regarding STRs. She wanted to know what is considered a good response time from the police, town, or neighbor if a violation is noticed. Furthermore, she believes that there should be some sort of parking permit that every rental needs to receive. Finally, she agreed with Mr. Wells in that all STRs should have business insurance, and this insurance should readily available both on the premises and online to provide assurance to the neighbors that the correct insurance was received.

Mark Usry from 117 Strawberry Street spoke next. He believed this was a good start. However, he had concerns about the lack of off-street parking that was not included or addressed in the staff presentation. He believes that every STR that is designated by Town should have one designated parking space in front of their property, in order to limit a free for all when it comes to parking. Finally, he wanted some clarification on the 24/7 violation response vs longer type violations.

George Proto from 607 Pine Street followed. He also believed that this was a good start for the Town, and he concurred with those before him that STRs should go through the CUP process instead of being a by-right use. Furthermore, he believes that if a noise violation is observed that the police chief or police in general should be the ones to enforce that. He also spoke on that if a violation is observed and reported there needs to be more of a graduating scale with violations instead of an all or nothing approach that the Town seemed to be taking.

His wife, Nancy Proto also of 607 Pine Street was next to be heard. She mentioned that she had some confusion on the parking requirements as it didn't seem to be addressed. She also wanted to know about the consequences of the violations – such as noise violations that are tenant driven and not owner driven.

Finally, the last public commenter to be heard was Marlene Cree from Blue Heron Realty. She believes that the suggestions of a graduating violation response would be a good one and should be conducted by the necessary personnel be it Town staff or police. Along with this, a financial penalty should be imposed vs outright stripping the permit if it is not a severe violation. She also mentioned that by-right would be better than following the CUP process as the number of public hearings that would be heard would be unsustainable for Town staff and the Commissioners. Finally, she wanted to see the ages that don't count against occupancy be raised from 5 to 10-12 years of age.

After Marlene Cree finished her comments, Planning/Zoning Assistant – Preservation & Zoning Administrator Tracy Outten read the comments that staff received from those who could not make it to the meeting. The following residents submitted comments; Kerry Shackleford (527 Jefferson Avenue), Raffaele Allen (504 Plum Street), Joseph Williams (515 Mason Avenue), Bonnie Moore (206 Madison Avenue), Christopher Stahl (209 Tazewell Avenue), and Andrew Lessner (404 Jefferson Avenue).

At approximately 7:02p.m., seeing as there were no more comments from those in attendance, Councilman Grossman asked for a motion to close the public hearing,

Commissioner Holloway made the motion, which was seconded by Commissioner McDonald. It was approved with unanimous consent.

At 7:02p.m., after the Planning Commission closed the Public Hearings, Mayor Charney asked for a motion to dismiss the Town Council, the motion was made by Councilman Buchholz, this was seconded by Councilwomen Tammy Holloway. It was approved with unanimous consent.

Once Town Council and members of the public left, the Planning Commission opened their meeting.

Councilman Grossman asked for a motion to accept ZTA 2024-01 with discussion for potential amendments to each section. Commissioner Ashworth made the motion, it was seconded by Commissioner Jim Holloway and was accepted with unanimous consent.

Once the motion was accepted, the Planning Commission began going through the proposed short term rental ordinance amendment.

The Planning Commission had one minor change to Section 2.9, as the packet they had received mentioned reference 4.15, this was incorrect, it should have said 4.12.

There were no changes to Article III.

After getting through Article III, Councilman Grossman asked the Planning Commission if everyone was comfortable allowing STRs as a by-right use in the districts that were mentioned within the proposed short term rental ordinance amendment; everyone agreed. Before moving on to address Article IV, Commissioner Holloway wanted to know if it was worth having a one-year trial period of having STRs as a by-right use. After a year, the Planning Commission would gather and vote on whether or not to leave STRs as a by-right use or change over to follow the Conditional Use Permitting process.

Once the Planning Commission reached Article IV – General Regulations Applicable to All Districts, they went section by section and the following decisions were made on the subsets of this article.

Section 4.12 (A) Purpose and Intent, Items #1 – 4: Fine as written.

Section 4.12 (B) Permitting Requirements:

(1): Fine as written

(2), Items a-g: Fine as written

However, when reaching item (2) (F), there was discussion by the Planning Commission on whether or not to leave the phrasing “publicly available” in. Commissioner McDonald believes that the only people who should have access to this information are the Town and Police. Commissioner Ashworth agreed with this sentiment.

Councilman Grossman asked for a motion to remove the phrasing “publicly available” from B.2.F. Commissioner McDonald made the motion which was seconded by Commissioner Ashworth. When the vote was made on the motion, it did not receive majority vote and failed to pass.

Councilman Grossman asked for a motion to remove the phrasing “publicly available” from B.2.F. Commissioner McDonald made the motion which was seconded by Commissioner Ashworth. The motion passed unanimously.

(3): Fine as written

(4): Fine as written

(5): Fine as written

(6): Fine as written

(7): Fine as written

Section 4.12 (C) Additional Requirements

(1): Fine as written

(2): Fine as written

(3): Fine as written

(4): Fine as written

(5): Fine as written

Once reaching section (5) deliberations began amongst the Planning Commissioners on whether or not those five years of age or younger was an acceptable age to exclude against the occupancy count or should it be higher. Commissioner McDonald expressed some concern as to how the Town was going to manage this. Commissioner Wright suggested that perhaps 16 was a good age as it would also address the parking concerns. Town Manager Hozey then pushed back and mentioned that even though 16-year-olds do not have the legal ability to drive without a parent, many of them do drive golf carts.

Commissioner Holloway wondered why there was a restriction in the first place, as Cape Charles was trying to attract younger families, placing an age restriction would turn families away from the Town.

After deliberations, Commissioner McDonald believed it would be best to change the phrasing to 12 and under, in order to be less restrictive.

Councilman Grossman wanted a motion to increase to age limit to exclude children 12 and under from counting against the total occupancy. Commissioner McDonald made the motion, and the motion was seconded by Commissioner Wright.

Ms. Nunez then clarified for the Planning Commission that by accepting this motion it would allow an unlimited number of children 12 years of age and younger on the premises.

After hearing this clarification, the motion was then withdrawn by Commissioner McDonald.

After talking about the occupancy age, it was 8:00p.m., and the Planning Commission agreed to pause discussion until the October 30th, 2024, Special Meeting.

Councilman Grossman called for a motion to dismiss the Planning Commission until October 30th. Motion was made by Commissioner Holloway and was seconded by Commissioner Wright and McDonald. It was approved by unanimous consent.

Chairman Stramm

Planning/Zoning Assistant